

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**BECKLEY DIVISION**

DONALD LEE TAYLOR,

Plaintiff,

v.

CIVIL ACTION NO. 5:06-cv-00005

JIM RUBENSTEIN, et al.,

Defendants.

**MEMORANDUM OPINION**

Pending before the Court are Plaintiff's Complaint [Docket 1]. By Standing Order entered on July 21, 2004, and filed in this case on January 4, 2006, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation (PF&R). Magistrate Judge VanDervort filed his PF&R [Docket 4] on February 6, 2009, recommending that this Court **DISMISS** Plaintiff's Complaint and remove this matter from the Court's docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and Plaintiff's right to appeal this Court's Order. *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge VanDervort's PF&R were due by February 24, 2009, pursuant to 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b). To date, no

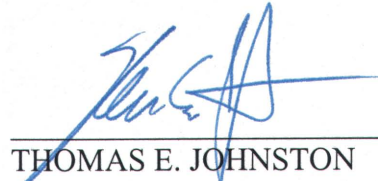
objections have been filed. In addition, Plaintiff filed a Motion to Dismiss [Docket 5] on February 27, 2009.

Accordingly, the Court **ADOPTS** the PF&R [Docket 4] in its entirety and **DISMISSES** Plaintiff's Complaint [Docket 1]. A separate Judgment Order will enter this day implementing the rulings contained herein.

**IT IS SO ORDERED.**

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: March 5, 2009

A handwritten signature in blue ink, appearing to read 'Thomas E. Johnston', is written over a horizontal line.

THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE